

ENTERED

June 06, 2022

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

Lorie Duff,	§	
	§	
	§	
<i>Plaintiff,</i>	§	
	§	Case No. 4:20-cv-03430
v.	§	
	§	
Frontier Airlines, Inc., ABM	§	
Aviation, Inc., and DAL Global	§	
Services, Inc.,	§	
	§	
<i>Defendants.</i>		

MEMORANDUM AND RECOMMENDATION

This memorandum addresses two pending motions to dismiss, one filed by Plaintiff Lorie Duff, Dkt. 33, and the other filed by Defendant DAL Global Services, Inc. (“DAL”), Dkt. 41.

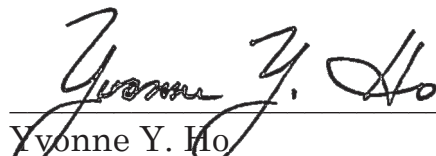
First, Plaintiff has filed a motion to dismiss with prejudice her claims against DAL. Dkt. 33. Plaintiff represents that she has settled her claims against DAL. *Id.* Accordingly, it is **RECOMMENDED** that the Court **DISMISS** all of Plaintiff Lorie Duff’s claims against DAL, with prejudice, and order that Plaintiff and DAL bear their own costs of court as to those claims.

Second, DAL filed a motion to dismiss the crossclaims that Defendant ABM Aviation, Inc. (“ABM”) asserted in a pleading that was filed without leave

of court after the deadline for amended pleadings had expired. Dkt. 41 (seeking dismissal of crossclaims in Dkt. 31, which was filed Dec. 15, 2021); Dkt. 10 (Apr. 2, 2021 deadline for amending pleadings). ABM then asked this Court to withdraw the challenged pleading (Dkt. 31) and for leave to file an amended answer asserting the same crossclaims. Dkt. 44 ¶¶ 5-14. In a separate Order, this Court granted ABM's request to withdraw the challenged pleading (Dkt. 31), but denied ABM's request for leave to file an amended answer with the new counterclaims. Dkt. 52. It is therefore **RECOMMENDED** that DAL's motion to dismiss (Dkt. 41) be **DENIED** as **MOOT**.

The parties have fourteen days from service of this Report and Recommendation to file written objections. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Failure to file timely objections will preclude appellate review of factual findings and legal conclusions, except for plain error. *Ortiz v. City of San Antonio Fire Dep't*, 806 F.3d 822, 825 (5th Cir. 2015).

Signed on June 6, 2022, at Houston, Texas.



Yvonne Y. Ho
United States Magistrate Judge